

Previous references.

File No. 43 of '02

1902-3

Serial Nos. 1-6

(Separate Rev.)

Later references.

Sep. Rev. (117-03)
82 1-3.

St. Def 1/3.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-6.

Part B. for

SUBJECT.

Excess penalty and Stamp duty levied on
an instrument of release.

Table of Contents:

Sl. 1. Det. no 434, of $\frac{2}{13}$. 8.02, From H. Sreenivasarao
Jodi Achammanahalli, Davagad.
Talug, Tumkur District.

Appeals against the Order of the Deputy Commr. of the
Tumkur District, levying duty & penalty amounting to
Rs 385 on the deed which the petitioner presented for
Registration & prays that under Section 45 of the
G. R. S. 58
Mysore Stamp Regulation of 1890 the whole
penalty levied may be refunded.

Q. 2. no. R. 500 of 13.8.03, To The Registrar of the Chief
Court of Mysore.

(Sl. No. 1)
Refers the above case for adjudication, by the
Chief Court, of Stamp duty on the instrument involved
therein & states that it is doubtful whether the Instrument
should be treated as a release or as a Conveyance for
the stated consideration and that the Govt. Advocate
has been instructed to appear before the Court when
the case is taken up for decision.

Sl. 3. No. $\frac{1106}{36}$ of 17.8.03, From the Registrar of the Chief
Court, Mysore.

Requests, with reference to Sl. No. 2, that the documents
or an authenticated copy of it may be forwarded
to the Chief Court before the 25th instant as the reference
has been fixed for hearing on Monday the 31st Instant.

Sl. 4. No. R. 577 of 20.8.03, To the Registrar of the Chief Court
Mysore.

Forwards the deed executed by Hanumanthappa of
Josi Achamana halli, in favor of his brothers, as
requested in Sl. No. 3,

Sl. 5. No. $\frac{1850}{73}$ of 19th Sep. '03, From the same Officer,

Forwards Copy of Opinion in Civil Deferred Case No. 2
of 19-3-4 on the file of the Chief Court, as called for
in Sl. No. 2.

Sl. 6. No. Jb. 1252-61 of 12.11.03,

To The Inspector General of Registration
" D. C. Junikur District.
" D. C.'s of other Districts.
" Comptroller, Mysore Govt.

Communicates the Chief Court's opinion received in the Sl. No. 5,
to the Inspector General of Registration & to the D. C. of the
Junikur District for information & guidance & states that
the penalty & the excess stamp duty levied on the instrument
referred to will be refunded to the petitioner & requests the
D. C. of the Junikur District to submit a Defend Bill
for the formal sanction of Government.

OFFICE OF THE DEWAN OF MYSORE,
(REVENUE AND GENERAL DEPARTMENTS).

(Full Office Note.)

Subject.

Petn. no: 434 of 2-8-02 from H. Sreenivas Rao of Jooi Achammahalli, Paragana Taluk, Tumkur District, praying for the refund of the penalty amounting to Rs 500 paid by him for having used a stamp of insufficient value for a certain deed.

Note.

Harumantha Rao, one of the brothers of the petitioner, executed a deed in favour of his brothers in a 5 Rs stamp paper by which he received Rs 4000 in cash and released his claim to the proportionate share in the immovable property enjoyed by him in common with his brothers including the petitioner. The deed was then produced before the Sub Registrar of Paragana for registration. Taking the deed for one of sale and ^{thinking} that the 5 Rs stamp in which the deed was executed was insufficient the Sub Registrar submitted it for the

- * 1. Statement of case in narrative form in regular sequence of subject matter or date.
 2. Opinions to be stated only as supported by precedents, or general rules which should always be quoted.
 3. Serial numbers in file, &c., to be always stated.
 4. Dates of important documents referred should be given.
 5. Write on both sides, leaving the same side as margin.
- † 1. No. and date of latest letter paper.
 2. Catch words to show nature of subject.
 3. Subject to be in red and body of note in black ink.

orders of the Dy Commissioner. The Dy Commissioner concurred with the Sub-Registrar and passed orders for the recovery of the deficit stamp duty Rs 35 and penalty Rs 350. Rs 385 was accordingly recovered from the Petitioner and credited in the Pavagada Taluk Treasury on 9.9.01. The petitioner prays for the refund of the penalty paid by him under Secⁿ 45 of the Mysore Stamp Regulation of 1900.

Sec 45 of the Mysore Stamp Regulation lays down that the penalty ^{paid} under the circumstances as above may, if applied for within one year from the date of payment, be refunded ^{wholly or partly} to the party paying it. The petition under reference being dated 2.8.02 is within one year from the date of payment of the penalty. Hence the refund may be ordered.

Submitted to the Secretary

for orders.

20/9/02

223/9/02

The deed was rightly construed
as liable to a duty of 40 Rs.
But the fine of 350 Rs seems
to be very heavy. A fine of
35 Rs would be quite sufficient.
Draft an order refunding 315 Rs
on this ground & submit to
the Dewan through the Com-
missioner for approval.

30/9/02
30/9/02

Submitted with draft.
21/10/02

Com. Secy
Draft.
3/10/02

Then I think is a question
for the order of Govt in the
Revenue Dept (vide section 45
of the Mysore Stamp Regulation)
I have seen the previous order
in the file today, and do it
the needful. Call your name up.
5/10/02

6/10

20/10/02
7. 1459

Being up with the
other papers with precedents,

257w -

10/11/02

27/10/02

Submitted.

The other papers referred to

and some precedents obtained from the
records are herewith put up. Please

See file no: 148 of 92, papers ending with foot
Propo no: $\frac{5707}{314}$ of 18.8.90, and ^{papers put up for reference to} correspondence.

ending with this office no: 71985 of 10.6.02 to D.B. Mysore.

Please also see the file of papers ending
with foot Propo no: $\frac{5539}{298}$ of 15.8.90 put up
with letter no: $\frac{216}{8}$ of 31.10.02 from D.B. Hassan
for which a note is submitted and orders
are solicited.

x.v.
10/12/02

Submitted to the Ills

11/12/02

The precedents found do not
show whether the orders were

passed by the member in charge of Rev or Stamp Department. In fact there is no use of going before 1895, as there was no defined ~~division~~ division of Debt before between the Dewan & Councillors. The 2nd Councillor refers to practice followed by him as Secretary. Please turn up precedents since 1895 to show whether such questions were submitted to the Councillor in charge of Rev or to the one in charge of Stamp Dept.

Handwritten
from not
ref. at
man.
This has been
lost. Handwritten
11/3/03

The Chief Controlling ^{Rev.} authority is defined to be the "Government" in the Stamp Regn. which does not necessarily conclude this question.

Asstt Secy. Rev.

x marked A.

Submitted. By the Secretary 7/2/1903 x

Papers ending with Govt Progs no: 12/24-5
12/24-5

of 30.4.96 obtained are herewith put up.

Two other similar references are also herewith submitted for orders.

12/3/03

11/3/03

The Reference put up (marked
A) shows that ~~the previous~~ it
was passed in the General
Dept^l. The Member in Charge -
of "Stamps" has ~~therefore~~ to deal
with such questions if that is
considered conclusive.

H. H.
14/3

The Dewan
through the
2nd Councillor.

I think this is a matter
which has to be dealt with
by the Chief Commissioner Revenue
and partly financial - By
"Stamps" in the Notification of 8th August 1902
relating to the distribution
of work, it meant the manufacture, supply
and sale of stamps. & I
therefore hesitate to record my
opinion in this case involving
a refund for fear of such
opinion being held - as I
think it ought to be ~~an~~ ultra
vires - Precedent A does not
help us much in the decision
of this question - In case it is
held that I am entitled to
deal with this & other similar
questions, I shall ~~be glad~~ be glad
to investigate them & give my opinion
May I ask for favor of a ruling? of revenue accepted 16/3/03

11/1
Miss 251
14-3-03

16/3/03
9/20

0824

Send this to the 1st Commlor
for his opinion - let the
question as to which Commlor
should deal with this matter
be treated as a scheduled
matter. The President
is in favour of the 2^d Commlor
dealing with this matter &
I cannot think at present
of any objection to it - let
me however await the
opinion of the 2nd Commlor also

23.III.03

Wm

Circulate
Hm
24/3

SS
n
26/3/03

The penalty was rightly
levied; but on equitable
considerations, let us
sanction a refund of
Rs 300 out of the 350
Rs levied. The
draft may be revised
accordingly & repaid
1/6/03

draft
revised
draft
n
26/03

Recd
6/6/03
The Demand

Submitted with revised draft. Hm
8/6/03. 10859
11.6.03.

Received with
order
drawn

Submitted.

With reference to the Dewan's
queries of 19.6.03 on the draft, please
see the paragraph headed "Release
or partition" at pages 352 and 353
of the Indian Stamp Act with notes
by Mr Jagannatha Aiyar.

(Copy of the
along with the
stamp duty)

27/6/03 JNB was sent to the Secy
27/6/03

The authorities quoted in the
above, are in favour of
considering this as a release.

In second thoughts, I ~~then~~
believe that my former opi-
nion was not correct.

The Party asks only for a
refund ^{of the penalty} but that need

not deter Govt from return-
ing the excess stamp duty also.
May an order be passed &
accepted?

Aug
22/7/03

To the Dewan,
through the 2nd. Councillor.

22/7/03

106
22-7-03

(9)

None of the cases quoted at pages 352 and 353 of Jagannatha Iyer's Stamp Act seems to be on all fours with the present case. The transaction evidenced by the document before Government is simply this:- A receives Rs. 4000 in consideration of the surrender by him of his specific share in certain family property. It seems to make no difference whether such surrender or transfer is made before or after partition. In either case, there is a conveyance for a stated money consideration by the one party to the other. I continue to be of the opinion that the instrument in question was rightly treated as a conveyance. In view, however, of the doubt raised, the case may be referred to the Chief Court under Section 57 of the Stamp Regulation. The case seems to be a sufficiently important one to render it desirable that we should obtain an adjudication thereon by that Court.

11799
28.7.03

Huz
27/7/13
27/2/03

03428
Mamun
obj. before chf
cont
Let the for unit
Adv to unites 30.11.03
27-7-03
tel. previous

Huz
31/7/13
H2 Ante
Pras
1/8/03
3/8/03

(Note continued)

The Registrar of the Chief Court,
who was requested to place the case before
the Judges thereof and obtain and forward
~~these~~ their opinion, has sent a copy
thereof. ~~forwarded by them~~ ^{The decision has been arrived at} after hearing
the arguments of the Court Advocate on
behalf of Court, and it is as follows:—

"The joint family consists of four brothers.
One of them has relinquished his interest
in the undivided property in favour of
two brothers in consideration of Rs 1000/-
paid by them. The document may
be regarded as a conveyance of his
undivided share, using the word conveyance
in its general sense. It may also be
regarded as a release, since one brother
has renounced all claim against
the family property. The Stamps Regn.
defines a conveyance as including "every
instrument by which property whether
moveable or immovable is transferred
inter vivos and which is not otherwise
specifically provided for by Schedule I".
Schedule I specifically provides for
releases; and consequently the document
ought not to be required to be
stamped as a conveyance."

Per
15/10/03

Submitted ^{to the Secy} for orders.
N 16/10/03

A draft sanctioning the repaid
of the penalty and the excess
stamp duty levied is put
up for approval -

[Signature]
18/10/03
4/11/03

To the Dewan,
through the 2nd. Councillor.

[Handwritten notes]
Submitted with draft.
26/10/03

The order drafted may
be issued - *[Signature]*
5-11-03.

K57
24-11-03.

[Handwritten notes]
13868
6.11.03

Read

Petition no: 4,34 of 2.8.02

from H. Sreenivasa Rao of
Jodi Achammahalli,
Pavagada Taluk, Tum-
kur District.

Order thereon.

Hammanna Rao,
one of the brothers of the
petitioner, executed a deed
in favour of his brothers
on a Rs 5/- Stamp paper,
by which he received
Rs 4000/- in cash, and re-
leased his claim to a
fourth share in the im-
moveable property en-
joyed by him in com-
mon with his brothers.
The deed was then produced
before the Sub-Registrar
of Pavagada for registra-
tion Construing it to be
a sale deed liable to
a

~~Draft not
passed.~~

Personally
20/7

mk sub ans
20/7/03

Please see
if there are any
? Hms
21/6/03

02399

Why is this not a
release? Is the
acceptance of surrender
sufficient because
the document from
that description.
Are there no aids
in the matter?
It is interesting to
consider this view.
I shall be glad to
know more about it.
There is no conveyance
given by the died
but only a renunciation
of his

HD Hms
20/6/03 19.11.03

Subd
Please see
the note
continued
22/11/03
27/11/03

Recd
23/6/03

a higher duty than that already paid, the Sub-Registrar forwarded the document for the orders of the Dy Commissioner, who concurred with the Sub-Registrar and recovered the deficit stamp duty of Rs 35/- and a penalty of Rs 35/-. The petitioner prays for the refund of the penalty paid by him.

The penalty was rightly levied in accordance with the provisions of the Stamp Regulation. But Govt consider that the amount may be reduced under the discretionary power allowed by Section 45, and are pleased to direct that Rs 300/- may be refunded out of Rs 350/- levied from the petitioner. The

which property whether
 moveable or immovable
 is transferred inter vivos
 and which is not other-
 wise specifically provided
 for by Schedule I, and
 Schedule I specifically provides
 for releases, the document
 ought not to be required
 to be stamped as a conveyance.

Govt. concur with the
 view of the Chief Commr. in
 the case, and direct that
 the penalty and the excess
 stamp duty levied be re-
 funded to the petitioner.

The Dy Commr., Tumkur District,
 is requested to submit
 a refund bill for the formal
 sanction of Govt.

draft as above
 by the Secy

26/10/03 Secy
 26/10/03

The Dy Commr., Tumkur District,
 with the document

The Commr., Mysore Govt.
 send to petitioner.

Revised draft ended
 21/10/03

I think the
 other draft is
 suitable
 4/11/03

Is Mr
 Govt. Commr.
 to accept?

This draft
 is with Govt.

The Opinion
 to be
 printed

Handwritten signature

27/10
 28/10
 29/10
 30/10
 31/10
 1/11
 2/11
 3/11
 4/11
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 6/11
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 31/12

he deficit stamp duty of
Rs 35/- and a penalty of
Rs 350/-. The petitioner
prays for the refund of
the penalty ^{levied from} ~~paid by~~ him

The decision
arrived at by the Judges
of the Chief Court in the
matter, after hearing
the arguments of the Govt
Advocate on behalf of
Govt, is that the docu-
ment may be regarded
as a conveyance of the
executants undivided
share, using the word
conveyance in its general
sense, and also as a
release, since one brother
has renounced all claim
against the family prop-
erty, and that, as the
Stamp Regn defines a
conveyance as including
every instrument by-

Order thereon.

By means of

The instrument
referred to in ~~the~~ peti-
~~tion read above~~ was
~~to the effect that~~ the
executant received
Rs 4000 in cash and
released his claim to
a fourth share in the
immovable property
enjoyed by him in
common with his bro-
thers. ^{When the document} ~~The deed so execu-~~
~~ted~~ was produced before
the Sub-Registrar of Pava-
joda for registration, he
construed it to be a
Sale deed liable to a
higher duty than that
already paid, ^{and} ~~the Sub-~~
~~Registrar~~ forwarded ~~the~~ it
~~document~~ for the orders
of the Dy Commr., who con-
curred with the Sub-
Registrar and recoured

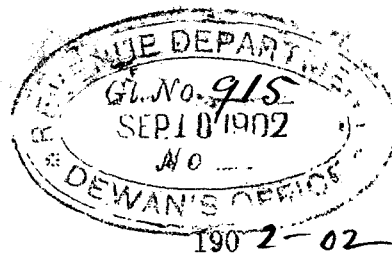
Read

Petition no: 4348

2.8.02 from H. Sreeni-
Vasa Rao of Jodi Acham-
manahalli, Pavagada
Taluk, and subsequent
reminder, in the matter
of refund of the penalty
of Rs 350/- recovered from
him by the Dy Commr,
Sunkur District, on
account of an instrument
executed by Hanumantha
Rao, one of his brothers,
in favour of ^{Petitioner} himself and
his another brother, on a
stamp paper of the value
of Rs 5/-.

2. Letter no: $\frac{1850}{73}$ of 19.9.02
from the Registrar of the
Chief Court of Mysore,
forwarding^a copy of the
opinion of the judges of
the Chief Court on the
subject of Stamp duty
on the Sunkur ment.

Order



Sep. Rev 2 sl. no. 1

subd.

Two Rupee stamp aff.
(Stamp sufficient)

No. 434

Name of Petitioner H. Sreenivasarao

Village godi Achammaiah

Taluk Pavagada

District Tumkur

Date of Arzi 2 } 8-02

Date of Receipt 13 }

Date of Disposal

No. of Enclosure one release deed
Registered

2) order complained of
produced

J.

May this be transd to the
Revenue Branch

201
4-9-02

Yes
7/8/9'02

Am.
12/9/02

Submitted with note.
20/9/02

ABSTRACT

Appeal against the following
order of the Dy. Commr. levying
duty and penalty on the
deed which the petr. presents
for registration: -

Certified that the
deficient Stamp duty of
Rs 35/- and penalty of Rs 350/-
total Rs 385/- (Rupees
three-hundred and eighty five)
has been levied from
Sreenivasarao under

the provision of the Stamp
Regulation of 1900 and
credited in the Pavagada
Taluk Treasury on the
9th Sept. 01."

The petr. states that
the Sub Registrar of Pavagada
misconstruing the release
deed for a deed of sale
or conveyance, submitted
it to the Dist. Registrar who
concurred with him and
levied the heavy penalty.

Prays, therefore, that
under the Sec. 45 of the
Mysore Stamp Regulation
the whole penalty levied
may be refunded

Sub.
2/4/02

22, 8-5-1902
22, 8-5-1902
22-8-902
C. S. S. S.

22, 8-5-1902
22, 8-5-1902
22-8-902
C. S. S. S.

34 post
registered
13-5-02

Sw. Sub. stamp
To

Sl. No. 1

MYSORE DEPT.
PETITION DEPT.
22-8-902 434R

The Chief Controlling Revenue Authority

or
The Government of Mysore,

one enclosure

434

The humble application of
H. Srinivasa Rau, residing at Jodi
Achammahalli, Pavagada Taluk,
Tumkur District, Respectfully Sheweth

That Hanumantha Rau, one
of the brothers of the applicant, execute
on the 19th September 1900 a release deed
in favour of the applicant and his another
brother Rama Rau relinquishing his
interest in certain ancestral properties
mentioned in the deed. (original enclosed
for perusal and return)

2

The deed was presented for registration
on the same day that is the 19th September 1900
and the Sub Registrar of Pavagada
misconstrued the deed for a deed of Sale or
Conveyance and was pleased to Submit
the same to the Dist. Registrar and Deputy
Commissioner for orders.

3

Thereupon that officer Concurring with the Sub Registrar, ordered that the insufficient Stamp duty of Rs 35 and penalty of Rs 350 or Rs 385 in all should be collected from the applicant

8

4. Consequently the amount of Rs 385 was collected from the applicant on the 9th September 1901, in spite of his (applicant's) Remonstrances to reconsider the order in shape of reducing the amount of penalty to Rs 5 as observed by certain Dist^r Registrars in the Province or to refer the same for orders of the Chief Controlling Revenue Authority. Vide certificate of the Dy. Commr^r on the top of the deed enclosed.

5

The applicant therefore prays that under Section 45 of the Mysore Stamp Regulation the Government will be graciously pleased to order the refund of the whole penalty unjustly imposed upon and collected from the poor applicant under the peculiar circumstances of the case.

For such act of kindness the applicant shall as in duty bound ever pray;

H. Prinsirasa Rao

2 August 1902
 Chammankalli
 Pavagada Taluk
 Tumkur Dist

Reference

207
31.7.03

434 of 902 822500022-8-9-02
1-8-03

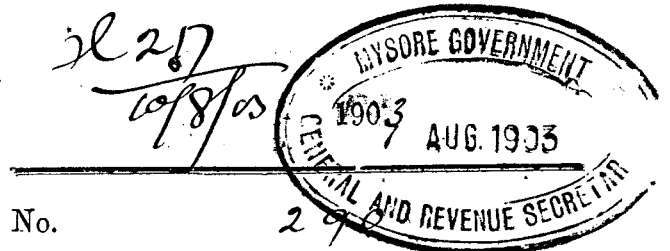
Transferred to the
Revenue Dept^{ty} (Financial)
in continuation.

21
1.01.03
Ld Rs 500-10/12/8/03
Sd Rs 577

The case has been
referred to the Chief Court for
adjudication of Stamp Duty
on the instrument involved
(Vide this Office no: R5002/13.8.03)
therein. May its decision be
awaited?

Submitted
21.7.03

YH
31/8/03



No.

29

Name of Petitioner H. Srinivasara

Village Achammaiahalli

Taluk Davagada

District Tumkur

Date of Arzi 25-7-1903

Date of Receipt 29-7-1903

Date of Disposal

No. of Enclosure nil

ABSTRACT

Reminder to his petition
of 2-8-1902 praying for
refund under Sec 4 of the
Stamp Regulation of the
duty and penalty levied
and collected on a document
executed by one of his brothers on
19th Sept 1901

2/23
31.7.03

Recd

5/11/03

Ref: pmt
MGCPB 5,000-10-11-02

30/8/03

Achammahalli

25 July 1903

recd by post
29-7-03
20

The Chief Controlling Rev: Authority
(Through)
The Secretary to Government

Rev: & General Department

Bangalore.

Honored Sir,

2908
29-7-1903

290

on the 2nd August 1902 I appeared,
against Tumkur Dy: Commissioner's
order levying & collecting duty & Penalty
on a document executed by one of my
brothers on 19 Sept: 1901, praying
Refund under Section 45 of Stamp Regu-
-lation The Penalty unjustly Collected etc.

The petition under reference
was not disposed of till now.

I therefore humbly & respectfully
beg your honor will be graciously
pleased to do me justice in disposing
the appeal.

I beg to remain honored Sir
your most obedient servant

H. Srinivasachari

Achammahalli

Paragada Taluk

Tumkur Dist.

Sl. No 2
20 (17)

The Registrar of the
Chief Court of Mysore.

Rs. R 500 ✓

date 13/8/93
13

Sir,

Under Sec 57 of the
Mysore Stamp Regulation
of 1900, I am desired to
refer the following case
for ~~requiring~~ adjudication
by the Chief Court
of stamp duty on the
instrument involved
herein: —

Hannantha Rao,
one of the brothers of
H. Sreenivasa Rao of Jodi
Achannarahalli, Pava-
gada Taluk, executed a
deed in favour of his
brothers on a stamp
paper of the value of Rs 5/-,
by which he received

Rs 400/- in cash, and released
his claim to a fourth share
in the immoveable property
enjoyed by him in Communion
with his brothers. The deed
was then produced before the
Sub-Registrar of Panagoda
for registration. Construing
it to be a sale deed liable
to a higher duty than that
already paid, the Sub-Registrar
forwarded the document
for the orders of Mr. Dy Commr.,
who concurred with the Sub-
Registrar and recovered
the deficit stamp duty of
Rs 35/- and a penalty of Rs 35/-.
The petitioner prays for the
refund of the penalty paid
by him.

It is doubtful
~~great~~ doubt whether
the instrument should be
treated as a release, or as
a conveyance for the stated
consideration.

(9)

I have instructed
has been instructed
The Govt Advocate to
appear before the ~~Chief~~
Court when the case
is taken up for decision

I have

Draft as
ordered by
The Dewan
N
5/8/03

Secretary
8/8/03
3/8/03

No. R 501

27/12/8/03
13

Copy forwarded to the
Govt Advocate in Mysore,
Bangalore, with a request
that he will be so good
as to appear before the
Chief Court when the case
referred to ~~cases~~ for
decision is taken up

quote the authorities
bearing
on the point
of law involved
in it

and communicate the
decision passed therein
to the undersigned at an
early date.

compd 1/1/8/ Some N
5/8/03

H. B. C.
8/8/03
for Secy

Mysore

Sl. no. 3

From

*The Registrar of the
Chief Court, Mysore*

To

*The Secretary to the
Govt of Mysore*

Dated 17 August 1903

Despatched 18

Received



Enclosures No.

General No.

1406

No.

36

*Requests that he will cause
the document or an authenticated
copy of it to be forwarded
to this Court before the 25th
Instant.*

Urgent

[Signature]
12.8.03

*Submitted with draft sending
the document.*

*NV
19/8/03*

Urgent //

To

S. No. 4

The Registrar of the
Chief Court, Mysore.

No. R577 [✓] Enf

date. 20-8-03
20.

Correspondence ending
with his letter no: 1108
36
of 17th Instant.

Has the honour to
forward herewith ^{as requested} ~~in ori-~~
~~ginal the document called~~
~~for in the above.~~

The deed executed by
Haimamalai
Rao of godi Achamamahalli
Village, Pavasada
Taluk in favor
of his brothers
under of 19th
Sept 1900. on
a stamp paper
of Rs 5/-

B. O
19/8/03
for Secy,
S. No. 4
19/8/03

70530-189 1903-04
R. 5
From *President of the*
Chambers, Dwyer

To *The Secretary to the*
Govt of Dwyer

Dated 19 Sept 103

Despatched *in*

Received

Enclosures No. *two*

General No. 1850
No. 73

Forward copy of opinion
in Civil Refused case
N. 3 of 1903-04 on the file
of this court.

just
19-9-03

Recd @ 5.30 P.M.
19/9

Def
W. A. A. L.
11/10/03

Recd
9/10/03
Inded with contg note
24/10/03

N. 1850 Intus
73

12 H. No. 5

Bangalore, 19th September 1903.

From,

V. A. Rajaratna Mudaliar Esq.,
Registrar, Chief Court of Mysore.

To,

H. V. Nanjundayya Esq., M.A., M.L.,
Secretary to Government,
General and Revenue Departments.

Sir

With reference to your no: $\frac{500}{R}$
dated 13th August 1903, I am directed
to forward copy of opinion in Civil Refer-
-red case no: 3 of 1903-4 on the file of
this Court.

The enclosure received
with the above is herewith returned.

I have the honor to be,

Sir,

Your most obedient Servant,

Narayanaiah
Registrar

mm

In the Chief Court of Mysore at Bangalore,
Friday, the 18th day of September 1903

Present:

Mrs Justice A. Ramachandra Iyer, Chief Justice

Mrs Justice A. Rangaswami Iyengar, Judge
and

Mrs Justice G. G. Meiklesjohn, Judge.

Civil Referred Case No 3 of 1903-04.

Read letter No. 500 dated 13th
R.

August 1903 from the Secretary to the
Government of Mysore, General and
Revenue Departments, referring, under
section 57 of the Mysore Stamp Regu.

lation of 1900, a case for adjudication
of Stamp duty on the instrument involved
therein -

This case coming on for hearing
on Monday the 31st day of August 1903,
Upon perusing the case as stated by
the

Government, and upon hearing the arguments of Mr. S. Ramaswami, Government Advocate, on behalf of Government, the Court pronounced the following,

Opinion

The joint family consists of four brothers. One of them has relinquished his interest in the undivided property in favour of two brothers in consideration of Rs 4000 paid by them. The document may be regarded as a conveyance of his undivided share, using the word conveyance in its general sense. It may also be regarded as a release, since one brother has renounced all claim against the family property. The Stamp Regulation defines a conveyance as including every instrument by which property whether

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1903-04

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

FINANCIAL

PROCEEDINGS

Dated 12th November 1903

No. Fl. 1252-61

Ordering the refund of the excess stamp duty and penalty levied from one H. Srinivasa Rao of Jodi Achammanahalli, Pavagada Taluk, on an instrument of release executed by his brother Hanumantha Rao in favor of himself and his another brother.

SBP-20.11.08-250.

*Proceedings of the Government of His Highness the Maharaja of Mysore,
Financial, dated 12th November 1903.*

READ—

(1) Petition No. 434, dated 2nd August 1903, from H. Srinivasa Rao of jodi Achammanahalli, Pavagada Taluk, and subsequent reminder, praying for the refund of the penalty of Rs. 350 out of Rs. 385 recovered from him by the Deputy Commissioner, Tumkur District, as excess stamp duty and penalty on an instrument executed by Hanumantha Rao, one of his brothers, in favor of petitioner and his another brother on a stamp paper of the value of Rs. 5, by which the executant received Rs. 4,000 in cash and released his claim to a fourth share in the immoveable property enjoyed by him in common with his brothers.

(2) Letter No. 1850—73, dated 19th September 1903, from the Registrar of the Chief Court of Mysore, forwarding a copy of the opinion pronounced by the Judges of the Chief Court on the subject of stamp duty on the instrument after hearing the arguments of the Government Advocate on behalf of Government.

Opinion of the Chief Court.

The Joint family consists of four brothers. One of them has relinquished his interest in the undivided property in favor of two brothers in consideration of Rs. 4,000 paid by them. The document may be regarded as a conveyance of his undivided share, using the word conveyance in its general sense. It may also be regarded as a release, since one brother has renounced all claim against the family property. The Stamp Regulation defines a conveyance as including "every instrument by which property whether moveable or immoveable is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I." Schedule I specifically provides for releases; and consequently the document ought not to be required to be stamped as a conveyance.

No. Fl. 1252-61, DATED BANGALORE, 12TH NOVEMBER 1903.

ORDER THEREON.—The Chief Court's opinion quoted above is communicated to the Inspector General of Registration and to the Deputy Commissioner, Tumkur District, for information and guidance. The penalty and the excess stamp duty levied on the instrument referred to will be refunded to the petitioner, and the Deputy Commissioner, Tumkur District, is requested to submit a refund bill for the formal sanction of Government.

H. V. NANJUNDAYYA,
Secy. to Govt., Gen. & Rev. Depts.

To—The Inspector General of Registration in Mysore.
The Deputy Commissioner, Tumkur District, with the document.
The Deputy Commissioners of other Districts.
The Comptroller to the Government of Mysore.

Bxd—c.v.

Redraft.

Read 16 § no. 6

Petition no: 434 & 2.8.02

from H. Sreenivasa Rao
of Jodi Achammaiahalli,
Panagada Taluk, and
subsequent reminder,
praying for the refund
of the penalty of Rs 350/-
out of Rs 385/- recovered
from him by the Dy
Comdr., Tumkur District,
as excess stamp duty
and penalty on an in-
strument executed by
Hannamatha Rao, one
of his brothers, in favour
of petitioner and his
another brother on a
stamp paper of the value
of Rs 5/-, by which the
executant received
Rs 4000/- in cash and
released his claim to
a fourth share in the
immovable property.

all
5/11/03

enjoyed by him in common with his brothers.

2. Letter no: $\frac{1850}{73}$ of

19.9.03 from the Registrar of the Chief Court of Mysore, forwarding a copy of the ^{pronounced} opinion by the judges of the Chief Court on the subject of stamp duty on the instrument after hearing the arguments of the Govt Advocate on behalf of Govt.

(Here copy the Chief Court's opinion in extenso)

Order Thereon

The Chief Court's

opinion quoted above is communicated to the Inspector Genl. of Regn. and to the Dy Commr, Tumkur ^{to the Dy Commr, Tumkur} ~~to the Dy Commr of District~~ with, for information and guidance. The penalty and the

✓
no: H: 1252-619 12. 11. 03.
12 ✓

No. 76.1349 & 25.11.03.

Govt Secretariat,
MYSORE ~~REVENUE~~ OFFICE,
~~PETITION~~ Revenue
DEPARTMENT,

The

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ENDORSEMENT GRANTED TO H. Sreenivasa Rao of Jodi
Sahammanahalli, Paragada Taluk,

in reply to his Petition Registered No. 434 dated 2.8.02
and subsequent reminder no 290 of 25.7.03, praying
for the refund of the penalty of Rs 35/- recovered from him
by the Dy Commr, Tumkur District, on account of an instrument
executed by his brother ———— Hammamtha Rao on a stamp paper
of Rs 5/-.

Petitioner is informed that orders have been issued to
the Dy Commr, Tumkur District, as regards the refund
to the petitioner of the penalty and the excess stamp
duty levied.

By Order,

14/11/03
Secretary.
13/11/03

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Campd 25/11